

Last Updated: 4/29/03

Adversary Proceedings



United States Bankruptcy Court
District of Delaware

Monday, April 21, 2003

Agenda

- **Opening Adversary Cases**
- **Filing when CM/ECF is Under the Weather**
- **Pro Hac Vice Motions**
- **Amended Complaints**
- **Importance of Choosing Correct CM/ECF Menus & Codes**
- **Certificate of No Objection/Certification of Counsel**

Agenda (continued)

- **Notice of Completion of Briefing**
- **Notice of Dismissal vs. Stipulation of Dismissal**
- **Settlement Agreements**
- **Recap ~ What to file in the Main Bankruptcy Case**
- **Inactive Adversary Proceedings**
- **Entry of Default & Default Judgment Procedures**
- **Notice of Document Entered in Error**
- **Training & Resources**

District of Delaware Adversaries Commenced

In the 12 month period ending June 2002,

7,564 cases commenced

**In the 9 month period
from July 2002 to March 2003**

7,628 cases commenced

National Comparison of Adversaries Commenced

In the 12 month period ending June 2002:

CA Central	4,702
CA Northern	2,038
PA Eastern	1,912
NJ	1,867
IL Northern	1,866
NY Southern	1,814
MD	1,701

How to Open an Adversary Proceeding

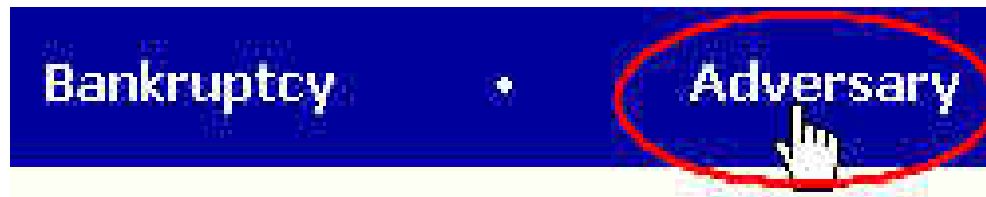
In Preparation for E-Filing

- Prepare the following as separate files in PDF format
 - Complaint
 - Cover sheet (optional)
 - Exhibits (if any)
- PDF files should contain up to 4 megabytes (approximately 30-50 pages).
 - If your file is larger than this, break it up into smaller files.
- Have a copy of the Coversheet and the Names and Addresses of all parties at hand

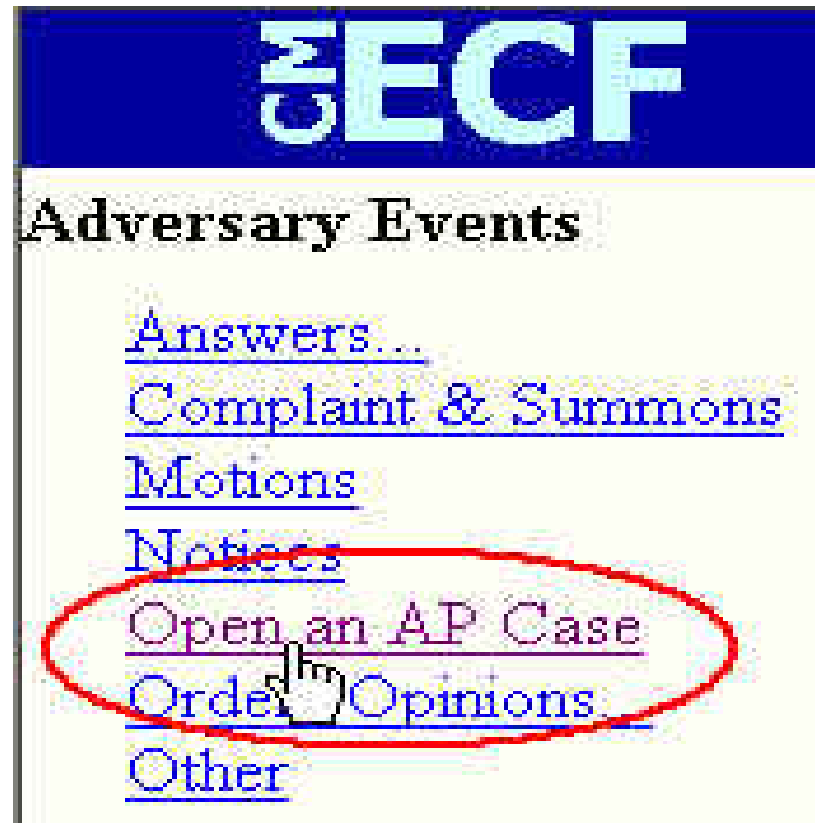
Step 1

Access CM/ECF from the Court's website

Select the [Adversary] Menu



Step 2



TIP:

Do NOT
Choose
"Complaint
& Summons"

Select [Open an AP Case]

Step 3

This screen shows that this is an adversary case, the date the case is being opened, and that a complaint will be included.

No changes are necessary, just accept Defaults & click **[Next]**



The screenshot shows a web form titled "Open Adversary Case" under the ECF logo. The form has a light blue background. It contains three fields: "Case type" with a dropdown menu showing "ap", "Date filed" with the text "4/7/2003", and "Complaint" with a dropdown menu showing "y". At the bottom, there are two buttons: "Next" and "Clear".

Field	Value
Case type	ap
Date filed	4/7/2003
Complaint	y

Step 4



The screenshot shows a web interface for the ECF Bankruptcy system. At the top, there is a dark blue header with the ECF logo on the left and the word 'Bankruptcy' on the right. Below the header, the main title 'Open Adversary Case' is displayed in a large, bold, blue font. The form contains two input fields: 'Lead case number' with a text box containing the placeholder 'enter bk case # here', and 'Association type' with a dropdown menu currently set to 'Adversary'. At the bottom of the form, there are two buttons: 'Next' and 'Clear'.

ECF Bankruptcy

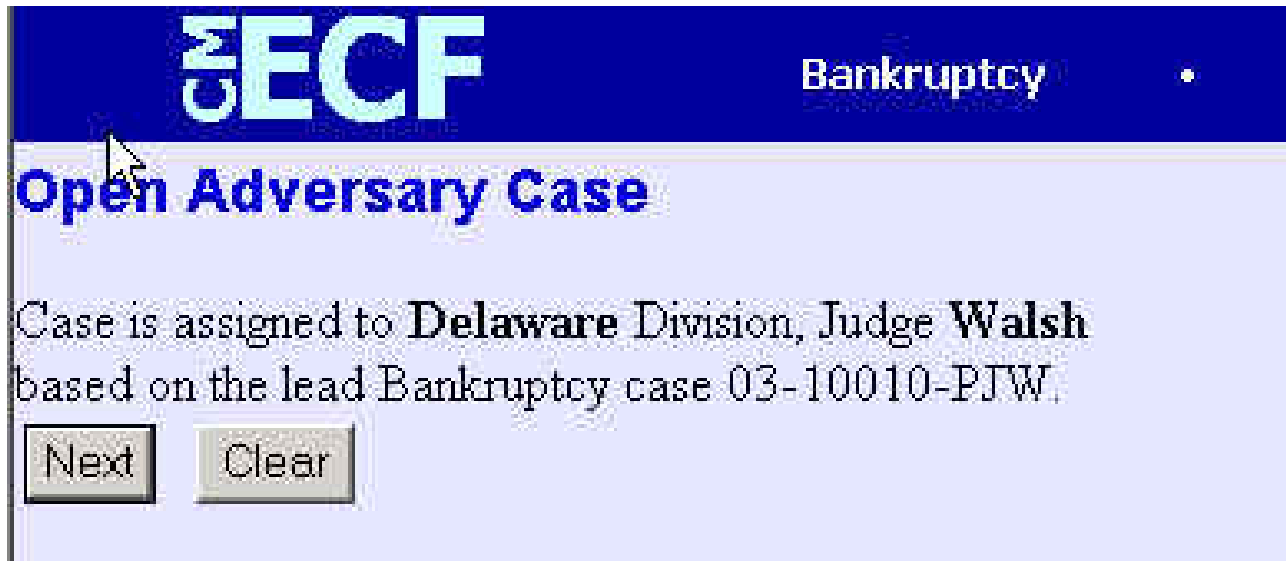
Open Adversary Case

Lead case number

Association type

Enter the case number of the
related bankruptcy case &
click [Next]

Step 5



CM/ECF Bankruptcy

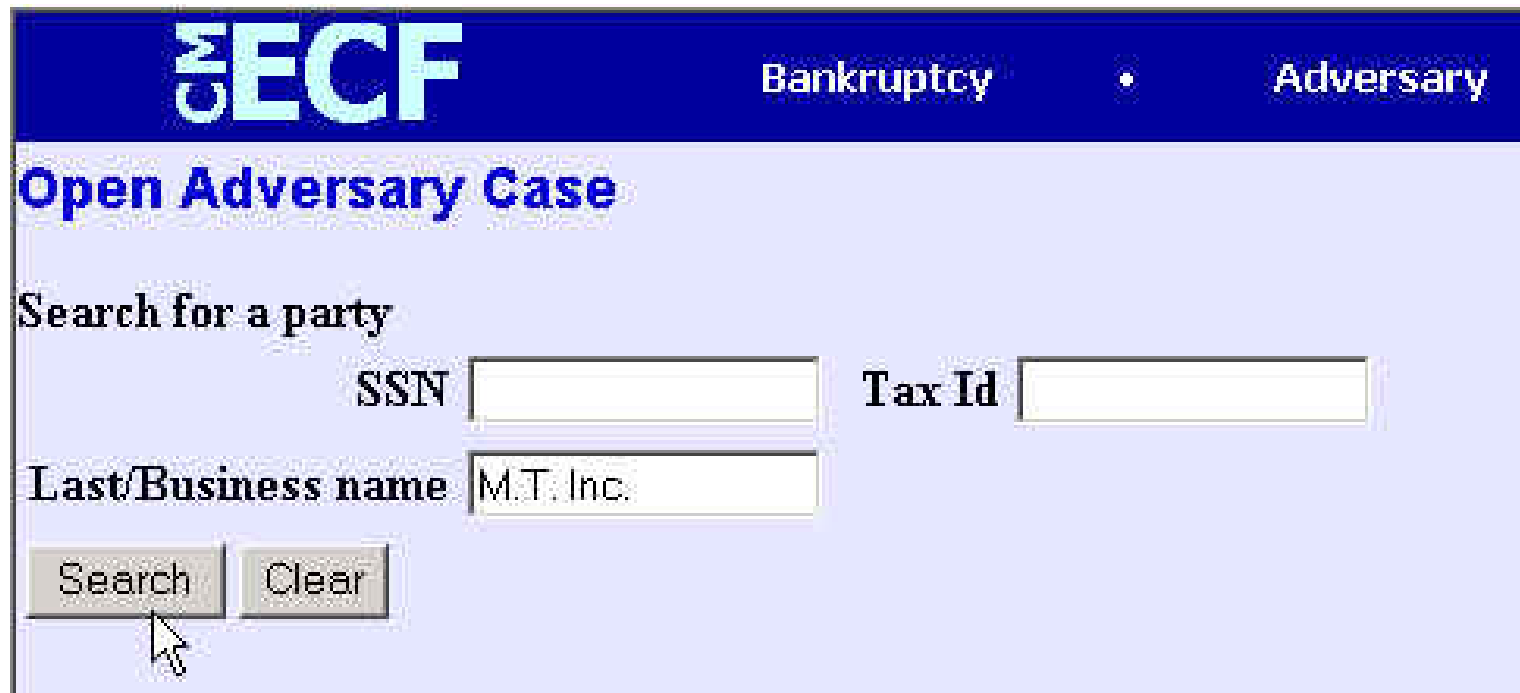
Open Adversary Case

Case is assigned to **Delaware** Division, Judge **Walsh**
based on the lead Bankruptcy case 03-10010-PJW.

CM/ECF will automatically assign the same judge from the lead bankruptcy case to this adversary proceeding.

Verify the judge & click **[Next]**

Step 6



The screenshot shows a web interface for the ECF Bankruptcy Adversary Case search. The header is dark blue with the ECF logo on the left and the text "Bankruptcy • Adversary" on the right. Below the header, the title "Open Adversary Case" is displayed in blue. The main area is light blue and contains a search form. The form has the label "Search for a party" and three input fields: "SSN", "Tax Id", and "Last/Business name". The "Last/Business name" field contains the text "M.T. Inc.". Below the input fields are two buttons: "Search" and "Clear". A mouse cursor is pointing at the "Search" button.

ECF Bankruptcy • Adversary

Open Adversary Case

Search for a party

SSN Tax Id

Last/Business name

Enter the last name or business name of plaintiff in the Last/Business name field & click **[Search]**

Step 7

If plaintiff's name is found in CM/ECF, Select the name.

Otherwise click [Create new party]

The screenshot shows the CM/ECF search interface. At the top, there is a blue header with the CM/ECF logo on the left, and the words "Bankruptcy" and "Adversary" on the right, separated by a dot. Below the header, the main area is light blue. It starts with the text "Search for a party". There are three input fields: "SSN" with a small double-line icon to its left, "Tax Id", and "Last/Business name". Below these fields are two buttons: "Search" and "Clear". Underneath the buttons is the section "Party search results", which contains the text "No person found." At the bottom of the search area is a button labeled "Create new party", with a mouse cursor pointing at it.

Step 8

TIP:

Double check
spelling of name

- Enter plaintiff's address, including county
- Change role to plaintiff
- Click [Attorney]

The screenshot shows the ECF Bankruptcy Adversary Query form. The 'Party Information' section includes fields for Last name (M.T., Inc.), First name, Middle name, Generation, Title, SSN (222-11-1234), Tax ID (555-21-4544), Office, Address 1 (432 West River Dr.), Address 2 (Suite 5), Address 3, City (Wilmington), State (DE), Zip (19801), County (New Castle), Country (U.S.A.), Phone, Fax, E-mail, ProSe (no), and Role (Plaintiff (pla:pty)). The Role dropdown menu is open, showing a list of roles: Plaintiff (pla:pty), Realtor (r:pty), Respondent (res:pty), Spec. Counsel (sp:prf), Stockholder (stkhld:pty), Successor Trustee (sutr:pty), Surveyor (surv:prf), Trustee (tr:tr), U.S. Trustee (ust:pty), Witness (wit:pty), and blank (blank:). The 'Attorney...' button is circled in red, and the 'Alias...' button is also visible. The 'Submit', 'Cancel', and 'Clear' buttons are at the bottom.

Step 9



The screenshot shows a web interface for searching attorneys. At the top is a dark blue header with the "ECF" logo in white. Below the header, the text "Search for an attorney" is displayed. There are two input fields: "Bar Id" and "Last name". The "Last name" field contains the text "Fitzpatrick". Below the input fields are two buttons: "Search" and "Clear".

ECF

Search for an attorney

Bar Id

Last name

Enter your last name in
the “Last name” field &
click **[Search]**

Step 10

Your name
should be
found.

Select your
name & click
[Select name
from list]

The screenshot shows a web browser window titled "Person Address - Microsoft Internet Explorer". The browser's address bar shows "https://e". The web page has a blue header with the "EEO" logo. Below the header, there is a search section titled "Search for an att". It contains two input fields: "Bar Id" and "Last name", each followed by a search button. Below these fields are "Search" and "Clear" buttons. A pop-up window displays the search results for "Patrick Fitzpatrick", showing his Bar Id (154948461), Phone (302-454-4545), and address (Fitzpatrick & Fitzpatrick, 4100 Chestnut St., 16th Floor, Newark, DE 19845, U.S.A.). Below the search section, there is a section titled "Attorney search results" with a list of names: "Fitzpatrick, Patrick" (highlighted) and "Fitzpatrick, Stuart". At the bottom of the page, there are two buttons: "Select name from list" (with a mouse cursor pointing at it) and "Create new attorney".

File Edit View
Back Forward
Address https://e
EEO
Search for an att
Bar Id
Last name
Search Clear
Attorney search results
Fitzpatrick, Patrick
Fitzpatrick, Stuart
Select name from list Create new attorney

Person Address - Microsoft Internet Explorer
Patrick Fitzpatrick
Bar Id: 154948461
Phone: 302-454-4545
Fitzpatrick & Fitzpatrick
4100 Chestnut St.
16th Floor
Newark, DE 19845
U.S.A.

Step 11

ECF Bankruptcy • Adversary • Query • R

Attorney Information (Party M.T.L. INC.,)

Patrick Fitzpatrick Esquire Bar Id:154948461 Bar Status:Unknown

Office	<input type="text" value="Fitzpatrick & Fitzpatrick"/>	Address 1	<input type="text" value="4100 Chestnut St."/>
Address 2	<input type="text" value="16th Floor"/>	Address 3	<input type="text"/>
City	<input type="text" value="Newark"/>	State	<input type="text" value="DE"/>
Zip	<input type="text" value="19845"/>	Country	<input type="text"/>
Phone	<input type="text" value="302-454-4545"/>	Fax	<input type="text" value="302-454-4546"/>
E-mail	<input type="text" value="PFitzpatrick@anyfirm.com"/>	Lead attorney	<input type="text" value="yes"/>

Click the Add attorney or Cancel attorney button to return to the Party screen and add other attorneys, add aliases, or submit all information for this party.

Verify information, make any necessary changes, & click **[Add Attorney]**

Step 12

ECF Bankruptcy • Adversary • Query

Party Information

M.T.L. INC. SSN:Unknown

Office Address 1

Address 2 Address 3

City State Zip

County Country

Phone Fax

E-mail

ProSe Role

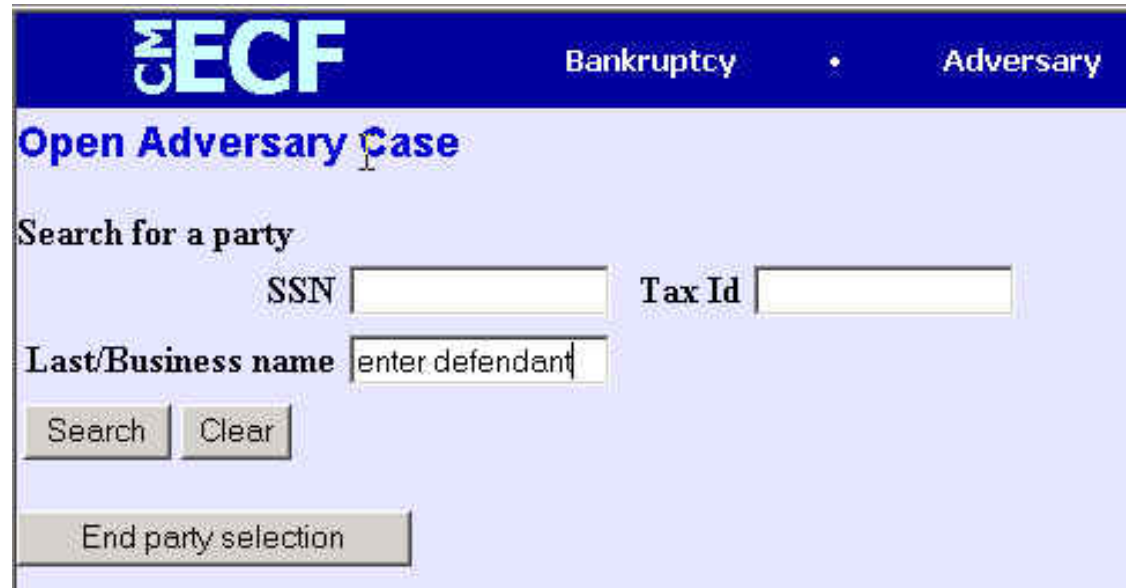
Party text

Add all attorneys and aliases before clicking the Submit button.

Verify plaintiff's info. & click [Submit]

Step 13

Enter any additional plaintiffs



The screenshot shows a web interface for the ECF Bankruptcy Adversary Case system. The header is dark blue with the ECF logo and the text "Bankruptcy • Adversary". Below the header, the title "Open Adversary Case" is displayed. The main section is titled "Search for a party" and contains three input fields: "SSN", "Tax Id", and "Last/Business name". The "Last/Business name" field contains the text "enter defendant". Below the input fields are two buttons: "Search" and "Clear". At the bottom of the form is a button labeled "End party selection".

If there are no additional plaintiffs,
Enter the last name or business name
of DEFENDANT in the Last/Business
name field, & click [Search]

Step 14

The screenshot shows the CM/ECF Bankruptcy Adversary search interface. At the top, there is a dark blue header with the CM/ECF logo on the left, and the words "Bankruptcy" and "Adversary" separated by a dot on the right. Below the header, the main area is light blue. It starts with the text "Search for a party". Underneath, there are three input fields: "SSN", "Tax Id", and "Last/Business name". Below these fields are two buttons: "Search" and "Clear". Further down, the text "Party search results" is followed by "No person found." At the bottom, there is a button labeled "Create new party" with a mouse cursor pointing at it.

If defendant's name is found in CM/ECF, Select the name.

Otherwise click [Create new party]

Step 15

TIP:

Double check
spelling of name

- Enter defendant's address, including county
- Change role to defendant
- Click [Submit]

ECF Bankruptcy • Adversary • Query

Party Information

Last name First name

Middle name Generation Title

SSN Tax ID

Office Address 1

Address 2 Address 3

City State Zip

County Country

Phone Fax

E-mail

ProSe Role


Party text

Attorney... Alias... Review... Add all attorneys and clicking the Submit button

Submit Cancel Clear

Debtor In Possession (dbpos:pty)
Defendant (dft:pty)
Examiner (ex:prf)
Financial Advisor (fa:prf)
Interested Party (intp:pty)
Interim Trustee (intr:pty)
Interpleader (i:pty)
Intervenor (inv:pty)
Intervenor-Defendant (id:pty)
Intervenor-Plaintiff (ip:pty)
Joint Debtor (jdb:)

Step 16



The screenshot shows a web interface for the ECF Bankruptcy Adversary Case system. The header is dark blue with the ECF logo and the text "Bankruptcy" and "Adversary". Below the header, the title "Open Adversary Case" is displayed. The main section is light blue and contains a search form. The form has a label "Search for a party" and two input fields: "SSN" and "Tax Id". Below these is a label "Last/Business name" followed by an input field containing the text "add'l defendants". There are two buttons, "Search" and "Clear", below the input fields. A mouse cursor is pointing at the "Search" button. At the bottom of the form is a button labeled "End party selection".

Search for & add additional
defendants or if there are no
additional defendants,
click [End party selection]

Step 17



The screenshot shows the ECF Bankruptcy system interface for opening an adversary case. The form includes the following fields and values:

Field	Value
Party code	3 U.S. not a Party
Nature of suit	424 (Obj)/Revocation Discharge 727
Origin	Original Proceeding
Transfer date	
Rule 23 (class action)	n
Jury demand	None
Demand (\$000)	9

At the bottom of the form are two buttons: "Next" and "Clear".

Using coversheet, make appropriate selections for all fields, leaving transfer date blank, & click [Next]

Step 18

- Click [Browse] and Select the PDF of the complaint
- If including the coversheet and/or exhibits, click [Yes] to add attachments
- Click [Next]



ECF Bankruptcy

Open Adversary Case

Select the **pdf** document (for example: C:\199cv501-21.pdf).

Filename

Attachments to Document: ☒ No ☐ Yes



ECF Bankruptcy

Open Adversary Case

Select the **pdf** document (for example: C:\199cv501-21.pdf).

Filename

Attachments to Document: ☒ No ☐ Yes

Step 19

Enter “CC” to indicate payment of filing fee by credit card & click [Next]



This screen may also appear, if so, just click [Next]



Step 20

Open Adversary Case

Docket Text: Final Text

Complaint by M.T.L. INC. against Business One. Receipt Number CC, Fee Amount \$150 Nature of Suit: 424 (Obj/Revocation Discharge 727). (Fitzpatrick, Patrick)

Attention!! Submitting this screen commits this transaction. You will have no further opportunity to modify this submission if you continue.

Next

Clear

Proof this screen carefully! If any part is incorrect, use back button to correct screen, then process screens again using next and submit buttons. If satisfied, click [Next]

Step 21

Open Adversary Case

U.S. Bankruptcy Court

District of Delaware

Notice of Electronic Filing

The following transaction was received from Fitzpatrick, Patrick on 4/7/2003 at 10:11 AM EDT and filed on 4/7/2003

Case Name: M.T.L. INC. v. Business One

Case Number: [03-50021-PJW](#)

Document Number: [1](#)

Case Name: Chapter Seven Johnson and Alice Jane Johnson

Case Number: [03-10010-PJW](#)

Document Number: [28](#)

Notice of Electronic Filing appears.
Print this for your records &
make a note of case #

YOU HAVE JUST
SUCCESSFULLY OPENED A
NEW AP CASE!!



Review of Common Errors



Common Error:

Choosing Complaint & Summons

File a complaint
by opening an
AP



Bankruptcy • Adversary

ECF
Adversary Events

- [Answers...](#)
- [Complaint & Summons](#)
- [Motions](#)
- [Notices](#)
- [Open an AP Case](#)
- [Orders/Opinions...](#)
- [Other](#)

Do **NOT** file a
complaint using
the main BK
case number



~~Adversary Events~~

~~[Answers](#)~~
~~[Complaint & Summons](#)~~
~~[Motions](#)~~
~~[Notices](#)~~
~~[Open an AP Case](#)~~
~~[Orders/Opinions...](#)~~
~~[Other](#)~~

Possible Consequences

error

choosing
"complaint"
instead of
"Open an ap
case"

Consequences

- New AP Case will not be opened
- You will not receive a case #
- You'll automatically be charged the filing fee

Common Error:

Failure to add Attorney


When
Entering
Party
Information
for the
Plaintiff,
Don't forget
to add
yourself as
the attorney

MECF Bankruptcy • Adversary • Query •

Party Information

Last name	<input type="text" value="The Big Corporation"/>	First name	<input type="text"/>
Middle name	<input type="text"/>	Generation	<input type="text"/>
SSN	<input type="text" value="222-11-1234"/>	Tax ID	<input type="text" value="111-11-1111"/>
Office	<input type="text"/>	Address 1	<input type="text" value="1234 West River Dr."/>
Address 2	<input type="text"/>	Address 3	<input type="text"/>
City	<input type="text" value="Wilmington"/>	State	<input type="text" value="DE"/>
County	<input type="text" value="New Castle"/>	Country	<input type="text" value="U.S.A."/>
Phone	<input type="text" value="(302) 555-5555"/>	Fax	<input type="text"/>
E-mail	<input type="text"/>	Role	<input type="text" value="Plaintiff (pla:pty)"/>
ProSe	<input type="text" value="no"/>		
Party text	<input type="text"/>		

Add all attorneys and aliases before clicking the Submit button.



Possible Consequences

error

Not
entering
attorney
for
plaintiff
when
opening a
new ap case

Consequences

- Attorney's name will not appear on docket as counsel for plaintiff
- May not receive notices regarding case

Common Error: Entering Multiple Defendants in Last Name field

When Entering Multiple Defendants,
Create a New Party for Each Defendant



ECF Bankruptcy • Adversary

Search for a party

SSN Tax Id

Last/Business name

Party search results



No person found.



ECF Bankruptcy

Party Information

Last name

Possible Consequences

error

Entering
multiple
defendants in
last name
field vs.
creating a new
party for
each
defendant

Consequences

- It will appear as though there is only 1 defendant
- May delay entry of default
- May cause a case to be closed before all matters have been resolved

Common Error: Attaching Summons & Notice to Complaint



**File the Summons &
Notice Separately**

Bankruptcy • **Adversary**

Adversary Events

- [Answers...](#)
- [Complaint & Summons](#)
- [Motions](#)
- [Notices](#)
- [Open an AP Case](#)
- [Orders/Opinions...](#)
- [Other](#)

Crossclaim
Intervener's Complaint
Notice of Removal
Pluries Summons
Summons
Summons Service Unexecuted
Summons and Notice of Pretrial Conference
Third-Party Complaint

**Do not attach the
Summons & Notice of
Pretrial Conference to
the Complaint**

Open Adversary Case

Select one or more attachments.

1) Enter the pdf document that contains attachment (for example: C:\appendix.pdf).

Filename
The Big Corporation Summons and Notice of Pretrial Conference
Browse...

2) Select a document type and/or enter a description.

Type	Description
Summons	Summons & Notice of Pretrial Conference

3) Add the filename to the list box below. If you have more attachments, go back to 1)

Add to List
Remove from List
Next

Possible Consequences

Error

Filing
summons &
Notice as
part of
complaint
vs. filing as
a separate
entry (#2)

Consequences

- The Pre-trial date you've indicated will not appear on the judge's calendar
- May delay entry of default

Common Error:

Failure to Add All Parties

Assigned to:

Related BK Case: 03-10010

Related BK Title: Chapter Seven Johnson and Alice Jane Johnson

Demand: \$50000

Nature of Suit: 424

Date Filed: 04/15/03



Defendant

No Plaintiff Added

Technologies of Tomorrow

400 Westminster Ave.

Miami, FL 47504

Filing Date	#	Docket Text
04/15/2003	1	Complaint by Error: party not known against Technologies of Tomorrow. Receipt Number cc, Fee Amount \$150 Nature of Suit: 424 (Obj/Revocation Discharge 727). (Moyer, Kelly) (Entered: 04/15/2003)

TIP:

If this happens to you, Contact the court's help desk. DO not open a new ap case.

Possible Consequences

Error

Failure to
add party:
plaintiff
or
defendant

Consequences

- CM/ECF will not recognize this as a proper filing
- Party will not appear on cover page
- Text that appears on the docket for your complaint will read "Complaint by error. Parties unknown..."

Example of Docket with Correctly Added Parties

Plaintiff

Chapter Seven Johnson, Jr.

222 Maple Street
Wilmington, DE 19899
302-555-5555
SSN: 123-45-6789

Alice Jane Johnson

222 Maple Street
Wilmington, DE 19899
302-555-5555
SSN: 222-55-9874

represented by **Perry Mason**
Mason & Mason
621 Sunset Blvd.
Hollywood, CA 90210
LEAD ATTORNEY

represented by
Perry Mason
(See above for address)
LEAD ATTORNEY




V.

Defendant

Technologies of Tomorrow

400 Westminster Ave.
Miami, FL 47504

Filing Date	#	Docket Text
04/15/2003	 1	Complaint by Chapter Seven Johnson Jr. and Alice Jane Johnson against Technologies of Tomorrow. Receipt Number CC, Fee Amount \$150 Nature of Suit: 424 (Obj/Revocation Discharge 727). Mason, Perry (Entered: 04/15/2003)

Common Error: Attaching Wrong or Partial PDF Image

ECF Bankruptcy

File a Motion:
01-55555 Large Corporation

Date document filed (mandatory)
4/11/2003

Select the **pdf** document (for example: C:\199cv501-21.
Filename

Attachments to Document: ☒ No ☐ Yes



UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In Re: Joe's Food Mart	:	Chapter 11
Patrick Glavin	:	Case No. 01-65211(PJW)
Plaintiff	:	
v.	:	Adv. No. 02-10067(PJW)
Citibank	:	
Defendant	:	

COMPLAINT

Possible Consequences

error

Attaching
wrong or
partial
pdf images

Consequences

- Those receiving electronic notification will receive the incorrect document
- May result in sensitive information being available for public viewing

Tip: Right-Click File and Click Open to Preview and Verify



The screenshot shows the ECF Bankruptcy filing system interface. The main window has a blue header with the ECF logo and the word "Bankruptcy". Below the header, there is a section titled "File a Motion:" with a link to "01-55555 Large Corporation". A form field for "Date document filed (mandatory)" contains the date "4/11/2003". Below this, there is a text area for "Select the pdf document (for example: C:\199cv501-21...)" and a "Filename" label. A text input field is followed by a "Browse..." button. At the bottom, there is a section for "Attachments to Document:" with radio buttons for "No" (selected) and "Yes". There are "Next" and "Clear" buttons at the bottom left. On the right side, a file list is visible, and a right-click context menu is open over it. The menu options are: Select, Open (highlighted), Print, Scan for Viruses..., Open With, Send To, Cut, Copy, Create Shortcut, Delete, Rename, and Properties. The file list includes items like "CERTIFICATE OF SERVICE - E", "CERTIFICATE OF SERVICE", "CHAPTER 7 PETITION - L", "complaint", "Creditor Matrix", "CREDITOR MATRIX", "DEBTORS' FIRST OMNIBUS OBJE", and "MOTION FOR RELIEF FROM STA".

ECF Bankruptcy

File a Motion:
[01-55555 Large Corporation](#)

Date document filed (mandatory)
4/11/2003

Select the **pdf** document (for example: C:\199cv501-21...)

Filename

Attachments to Document: ☒ No ☐ Yes

Select
Open
Print
Scan for Viruses...
Open With
Send To
Cut
Copy
Create Shortcut
Delete
Rename
Properties

CERTIFICATE OF SERVICE - E
CERTIFICATE OF SERVICE
CHAPTER 7 PETITION - L
complaint
Creditor Matrix
CREDITOR MATRIX
DEBTORS' FIRST OMNIBUS OBJE
MOTION FOR RELIEF FROM STA
E - A
INTERE
FOR F
.)

Tip: Naming PDF Files

- Use easily identifiable file names
- Incorporate the Case Number into file name
- Incorporate the Type of Pleading into file name
- Examples:
 - 1124 Fourth Interim Application.PDF
 - 01-54247 Omnibus Obj to Claims.PDF

Filing When CM/ECF is Under the Weather



What do I do when CM/ECF Times Out?

Did everyone
receive
service?

I didn't
receive a
Notice of
Electronic
Filing, now
what?

Will this
delay
getting
my order
signed?

Was my
filing
accepted?

Should I
re-file?



I didn't receive a Notice of Electronic Filing, Now What?

Run a docket report, including links to the Notice of Electronic Filing to see if your filing was accepted



Docket Sheet

Case number

☒ Filed

☐ Entered

to

Documents

to

☐ Public docket

☒ Include terminated parties

☒ Include links to Notice of Electronic Filing

☒ HTML

☐ Text

Sort by

Filing Date	#	Docket Text
01/15/2003	1	Chapter 7 Voluntary Petition. Receipt Number cc, Amount Paid \$200. F. (Jones, Phillip) (Entered: 01/15/2003)
01/17/2003	2	Order Dismissing Case Signed on 1/17/2003. (Jones, Phillip) (Entered: 0
01/17/2003	3	Order Dismissing Case Signed on 1/17/2003. (Jones, Phillip) (Entered: 0
01/17/2003	4	Meeting of Creditors. 341(a) meeting to be held on 12/15/2003 at 12:45 Courthouse, Courtroom #4B, Camden, NJ. Last day to oppose discharg by 12/15/2 003. Government Proof of Claim due by 1/15/2005. (Jones, .

I didn't receive a Notice of Electronic Filing, Now What?

- If your filing does NOT appear on docket, re-file
- If your filing DOES appear on docket, **DO NOT REFILE**,
 - If there is a link for the NEF (silver bullet), click it to open, and print for your records
 - If there is no link for the NEF, serve all parties and file a Certificate of Service. Print docket report to be submitted to chambers in place of NEF.

Possible Consequences

error

Not
checking
docket
report
before
re-filing

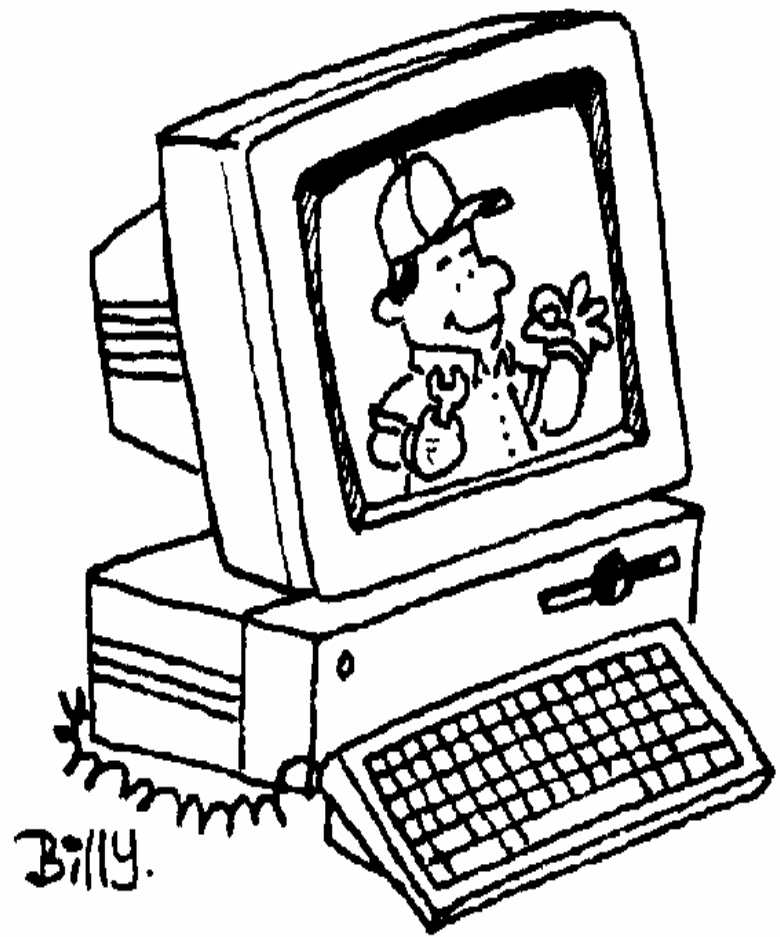
Consequences

- Creates a duplicate filing
- If filing fee is required, may be charged twice
- requires filing a Notice of Document Entered in Error

Filing when CM/ECF is Not Operating

- CM/ECF is occasionally down for maintenance for short periods.
- All system problems are logged and verifiable by the Court.
- Please wait for ECF to return to normal operation

Do NOT paper file!



TIME CRITICAL Filings

**NEW
PROCEDURE
!!!**



**If you have a time critical filing & the deadline passes while the system is down,
Do NOT paper file!**

Please wait for the system to become available, e-file the document, THEN...

TIME CRITICAL Filings

- **Prepare a Request to Change Filing Date**
 - Include Case # and Document #
- **Prepare an Affidavit stating that the system was down**
- **E-File the Request with Affidavit as an Attachment:**
[Bankruptcy] or [Adversary] > [Notices] > [Request to Change Filing Date]



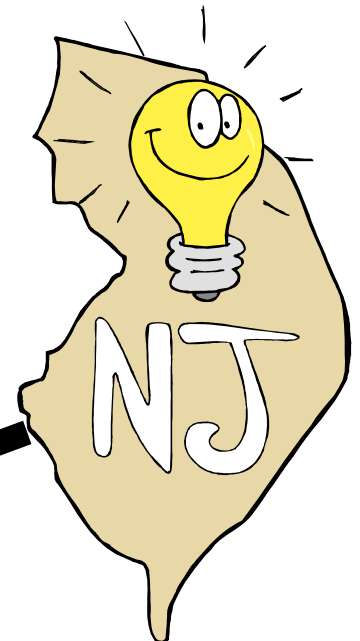
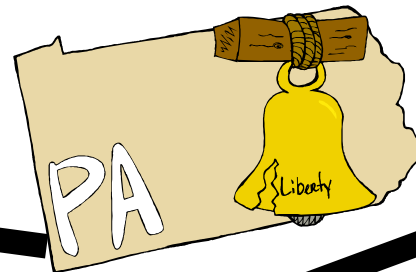
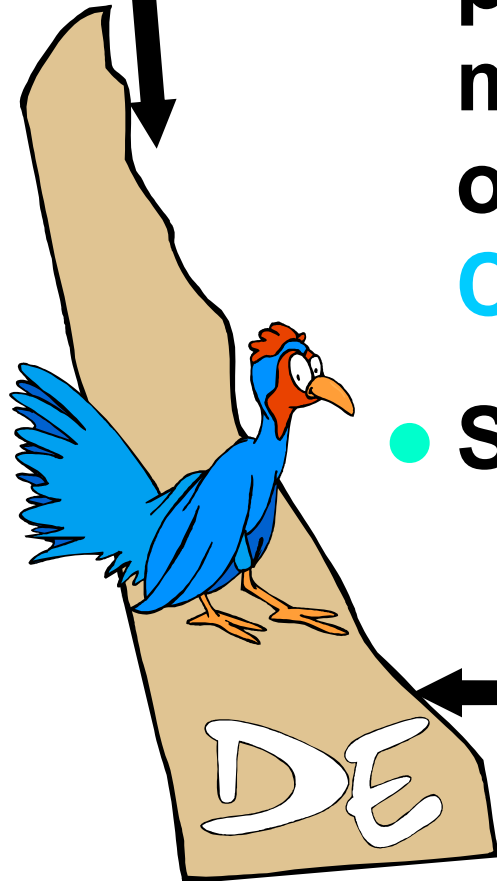
Pro Hac Vice Motions





Delaware Bankruptcy Court L.R. 9010-1(b) Pro Hac Vice.

- “Counsel may be admitted pro hac vice only upon motion and after satisfaction of the requirements of **District Court Rule 83.5(c)**...”
- See **Local Form 105**



E-Filing Pro Hac Vice Motions

- **Must be filed in all cases where appearance is requested (adversary and/or bankruptcy cases)**
- **Follow Judge's procedures for delivering proposed orders to chambers for consideration**



The screenshot shows the ECF Bankruptcy system interface. At the top, there is a blue header with the ECF logo and the word 'Bankruptcy'. Below the header, the text 'File a Motion' is displayed. Underneath, the case name '01-55555 Large Corporation' is shown. A list of motion types is presented in a scrollable box, with 'Pro Hac Vice Admission - Motion' highlighted in blue. Other visible options include 'Pay - Motion', 'Pay Filing Fee in Installments - Application', 'Pay Taxes - Application', 'Payment of Administrative Expenses/Claims - Motion', 'Payroll Deduction - Motion', 'Prohibit Use Cash Collateral - Motion', and 'Protective Order - Motion'. At the bottom of the list, there are 'Next' and 'Clear' buttons.

Possible Consequences

error

NOT
CONFORMING
TO LOCAL RULE
OR
not filing in
all
appropriate
cases

Consequences

- MOTION MAY BE DENIED/you MAY NOT BE ABLE TO APPEAR IN THE CASE
- MAY DELAY HEARING if not filed in correct case

Amended Complaints



Amended Complaints

- The amended complaint must clearly state what is being amended (ex. substituting parties, change in demand)



- E-File: [\[Adversary\]](#) > [\[Complaint & Summons\]](#) > [\[Amended Complaint\]](#)

Possible Consequences

error

NOT
CLEARLY
STATING
WHAT IS
BEING
AMENDED
IN
COMPLAINT

Consequences

- PARTY MAY NOT BE ADDED OR CHANGED IN CAPTION
- MAY DELAY ENTERING OF DEFAULT/DEFAULT JUDGMENT

Importance of Choosing Correct CM/ECF Menus & Codes



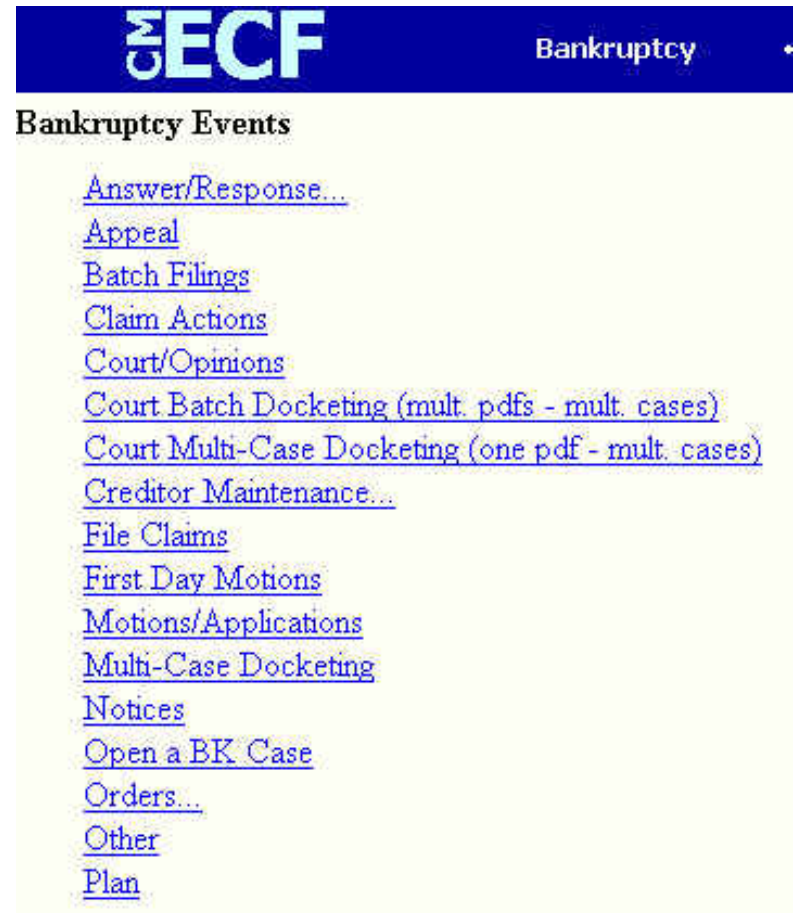
Adversary vs. Bankruptcy Menu



- If an event code is not in the Adversary Menu, check the Bankruptcy Menu
- It is acceptable to use the Bankruptcy Menu on a limited basis for Adversary filings
- Frequently used event codes not in Adversary Menu – send an e-mail to:
Stacey_Manley@deb.uscourts.gov

Choosing Correct Dictionary Event Code

- When filing an answer to a motion, select [Answers], not [Motions]
- When filing a motion, do NOT select [Notices], select [Motions]
- Incorrectly filed documents won't show on proper reports



- You will be contacted to re-file improperly filed documents

Possible Consequences

error

Choosing
wrong
menu/code

TIP:

If you can't find
code, Contact the
court's help desk

Consequences

- Court may request that you file a notice of document entered in error
- MAY DELAY ENTERING OF DEFAULT/DEFAULT JUDGMENT
- May not be scheduled for or considered at hearing

Certificate of No Objection (CNO)
Certification of Counsel (COC)



Certificate of No Objection/ Certification of Counsel

- **Caption must include the referenced document #**
- **Must be filed in AP when pertaining to a motion in the AP**
- **Do **NOT** file prior to objection deadline**
- **Follow Judge's procedures for delivering proposed orders to chambers for consideration**



Possible Consequences

error

filing in main
bk case, not
including
referenced
document #, &
not following
chambers
procedures

Consequence

will
delay
entry of
order

Notice of Completion of Briefing



Notice of Completion of Briefing

- When a pleading is filed that requires briefing (ex. Motion for Summary Judgment), prepare a **Notice of Completion of Briefing**
- Check chambers procedures for individual judges' briefing requirements
- **[Adversary] > [Notices] > [Completion of Briefing]**



Possible Consequences

error

failure to
file a notice
of
completion
of briefing
Or using
wrong
event code

consequence

motion will be
overlooked &
no hearing
will be
scheduled

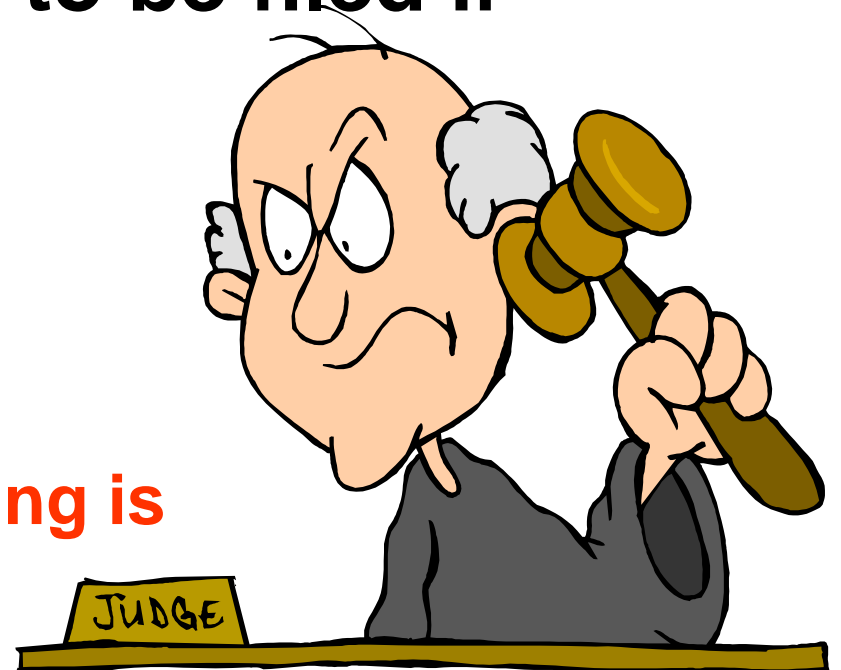
Notice of Dismissal vs. Stipulation of Dismissal



Notice of Dismissal vs. Stipulation of Dismissal

- Notice of Dismissal to be filed if no answer has been filed
- Stipulation of Dismissal to be filed if answer HAS been filed
- BOTH must contain the following language:

“This adversary proceeding is hereby closed.”



Possible Consequences

error

Filing a
notice when
an answer is
filed
(instead of
stipulation)

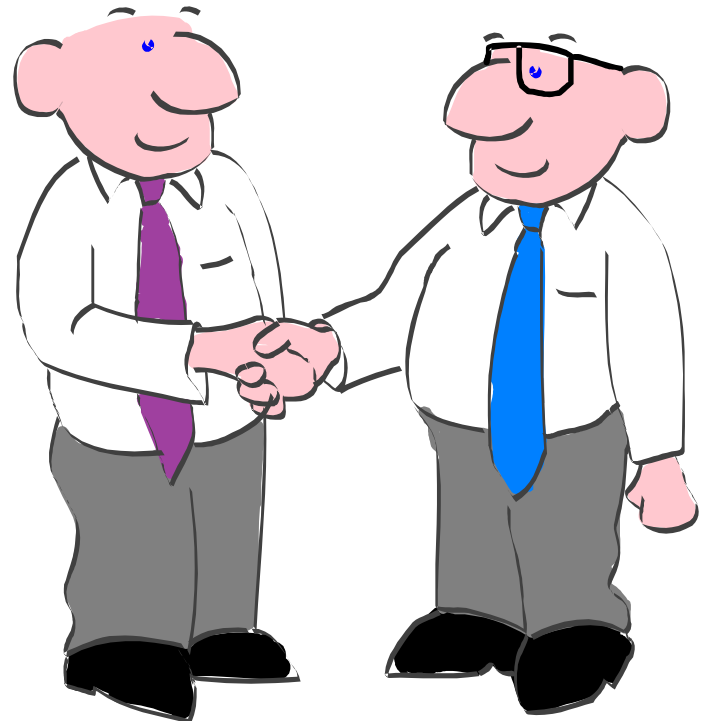
consequence

will delay case
being dismissed
and closed

TIP:

Judge's signature is
only required on
stips which pertain
to the discharge

Settlement Agreements



Settlement Agreements

What to File in the Main Bankruptcy Case:

- File in the Main Bankruptcy Case per F.R.Bankr.P. 9019 (**NOT** in the AP Case) (NOTE: J. Fitzgerald has a different requirement for filing Settlement Agreement – see chambers procedures)
- Include AP Case # and Names of Defendants in the body of the Agreement
- E-File: **[Bankruptcy] > [Motions/Applications] > [Approve-Motion]**. Add free text stating parties & AP Case #. Example:

Motion to Approve Settlement Agreement Between Large Corporation and Yummy's Ice Cream re: Adversary Case #01-12345. Filed by Large Corporation (Mason, Perry). (Entered: 03/15/03)

THEN...

Settlement Agreements

What to File in the Adversary Case:

- **File a Notice of Settlement Agreement in the AP case relating to main case # and document #** (NOTE: J. Fitzgerald has a different requirement for filing Settlement Agreement – see chambers procedures)
- **[Adversary] > [Notices] > [Settlement – Notice]**
- **When the terms of the agreement have been met, a Notice or Stipulation of Dismissal** (depending on settlement language) should be filed

Possible Consequences

error

Failure to
file
settlement
agreement in
main
bankruptcy
case & notice
in ap case

Consequences

- Judge will not sign settlement agreement
- May receive notice of contemplated dismissal or request for status
- Ap may be dismissed

Recap ~ What to File in the Main Bankruptcy Case



Recap ~ What to File in the Main Bankruptcy Case

- **Pro Hac Vice Motions**
 - File in each relevant case
- **Settlement Agreements**
 - File in Bankruptcy Case ONLY

**NO OTHER ADVERSARY FILINGS
SHOULD BE FILED IN THE MAIN
BANKRUPTCY CASE**

Inactive Adversary Cases



Inactive Adversary Cases

- If a case is inactive for a period of 3 months, you may receive a **Notice of Contemplated Dismissal** or **Request for Status from the Court**
- You are responsible for responding by filing the appropriate document
 - Ex. Notice of Dismissal, Status Report, Notice of Settlement Agreement

Possible Consequences

error

No case
activity for
more than 3
months

Consequences

- May be required to attend status hearing
- Case may be dismissed

Entry of Default & Default Judgment Procedures

3 Step Process

STEP #1

Prepare & E-FILE Request for Entry of Default

STEP #2

Prepare & E-FILE Request for Default Judgment

STEP #3

E-MAIL the following to Court:

- The one page proposed Entry of Default
- The one page proposed Judgment by Default

Entry of Default

An Entry of Default can be requested when the defendant has failed to answer, plead or defend

STEP #1: Preparing Request for Entry of Default

Prepare the following in PDF Format:

Request for Entry of Default

Affidavit & Certificate of Service for this pleading

Copy of Certificate of Service from the Complaint

***Proposed Entry of Default**

***Use the form on our website**

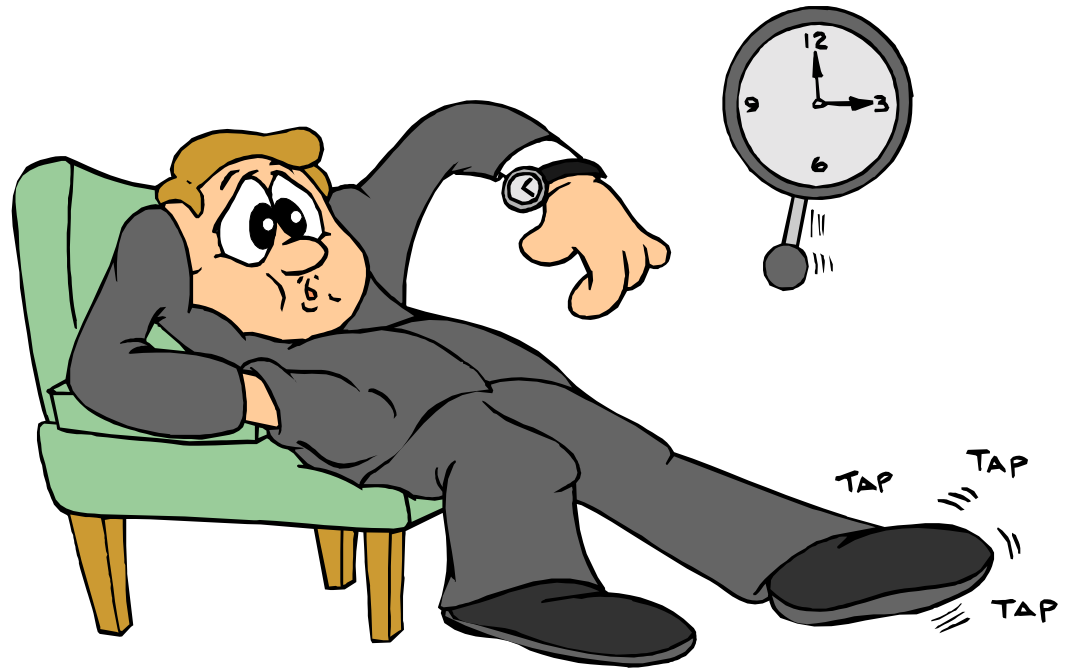
***This form must also be saved in Word or WordPerfect and titled:
“EntryofDefaultCase#”**

STEP #1: E-Filing Request for Entry of Default

- **[Adversary] > [Motions] > [Request for Entry of Default].** Note: Add defendant's name in free text.
- **Main Document:**
 1. Request for Entry of Default
- **Attachments:**
 1. Affidavit & Certificate of Service for this pleading
 2. Proposed Entry of Default
 3. Copy of Certificate of Service from the Complaint

Entry of Default Judgment

An Entry of Default Judgment can be requested next



It is not necessary to wait for the Court to enter an Entry of Default before filing this Request

STEP #2: Preparing Request for Entry of Default Judgment

Prepare the following in PDF Format:

Request for Entry of Default Judgment

***Proposed Judgment by Default**

***Use the form on our website, and be sure to fill in the dollar amount requested**

***This form must also be saved in Word or WordPerfect and titled:
“JudgmentCase#”**

STEP #2: E-Filing Request for Entry of Default Judgment

- **[Adversary] > [Motions] > [Request for Entry of Default Judgment].** Note: Add defendant's name in free text.
- **Main Document:**
 1. Request for Entry of Default Judgment
- **Attachments:**
 1. Certificate of Service for this Pleading
 2. Proposed Judgment by Default

STEP #3: E-Mail Proposed Forms

- E-mail both **ONE PAGE** forms (Proposed Entry of Default & Proposed Judgment by Default) in Microsoft Word or WordPerfect Format
- Please do not send files containing affidavits, certificates of service, or requests
- Multiple attachments to a single e-mail are acceptable

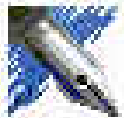
STEP #3: E-Mail Proposed Forms

Send e-mail to:

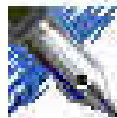
DEBDefault_Judgment@deb.uscourts.gov

Your E-Mail Should Look As Follows:

 Perry Mason 03/16/03	To:	DEBDefault_Judgment@deb.uscourts.gov
	cc:	
	bcc:	
	Subject:	99-50504 Defaults



EntryofDefault00-12345.wpd



Judgment00-12345.wpd



EntryofDefault02-46464.wpd



Judgment02-46464.wpd

Example of Forms to E-Mail

United States Bankruptcy Court District of Delaware

In re _____)
Debtor)
)
Case No. _____)
)
Chapter _____)
Plaintiff)
)
v.)
)
Adv. Proc. No. _____)

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law.

Name: _____

Therefore, default is entered against the defendant as authorized by Federal Rule of Bankruptcy Procedure 7055.

Entry of Default 00-12345

United States Bankruptcy Court District of Delaware

In re _____)
Debtor)
)
Case No. _____)
)
Chapter _____)
Plaintiff)
)
v.)
)
Adv. Proc. No. _____)
Defendant

JUDGMENT BY DEFAULT

Default was entered against defendant _____
(name)

on _____
(date). The plaintiff has requested entry of judgment by default

and has filed an affidavit of the amount due and stating that this defendant is not in the military service. Furthermore, it appears from the record that this defendant is not an infant or incompetent person. Therefore, pursuant to Fed. R. Civ. P. 55(b)(1), as incorporated by Fed. R. Bankr. P. 7055, judgment is entered against this defendant in favor of the plaintiff as follows:

\$

Judgment 00-12345

Possible Consequences

Errors

Not following
all three steps

Choosing
"default
judgment-
motion" code
When filing a
request

Consequence

Entry of
default and
default
judgment will
not be entered

Correcting Errors in E-Filing



Correcting Errors in E-Filing

If you have erroneously:

Attached the wrong PDF,
Filed using wrong case #,

or

Filed the same thing twice

File a **Notice of Document
Entered in Error**

*(In all other instances, file a **Notice of Withdrawal**)*



What to Include in the Notice of Document Entered in Error

- **The caption must state the case name and number and the related document number**
- **The body must state a description of the document and the reason you wish to have it entered in error**

IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE		
In Re: The Big Corporation	:	Chapter 11
	:	Case No. 97-123456 (PJW)
Debtor	:	Related doc. # 2000
NOTICE OF DOCUMENT ENTERED IN ERROR		
Please take notice that docket entry number 2000, Motion to Dismiss, was entered in error. The wrong image was attached.		
JOE ATTORNEY, ESQUIRE		
/s/ Joe Attorney		
Joe Attorney		
200 South First St.		
Wilmington, DE 19801		

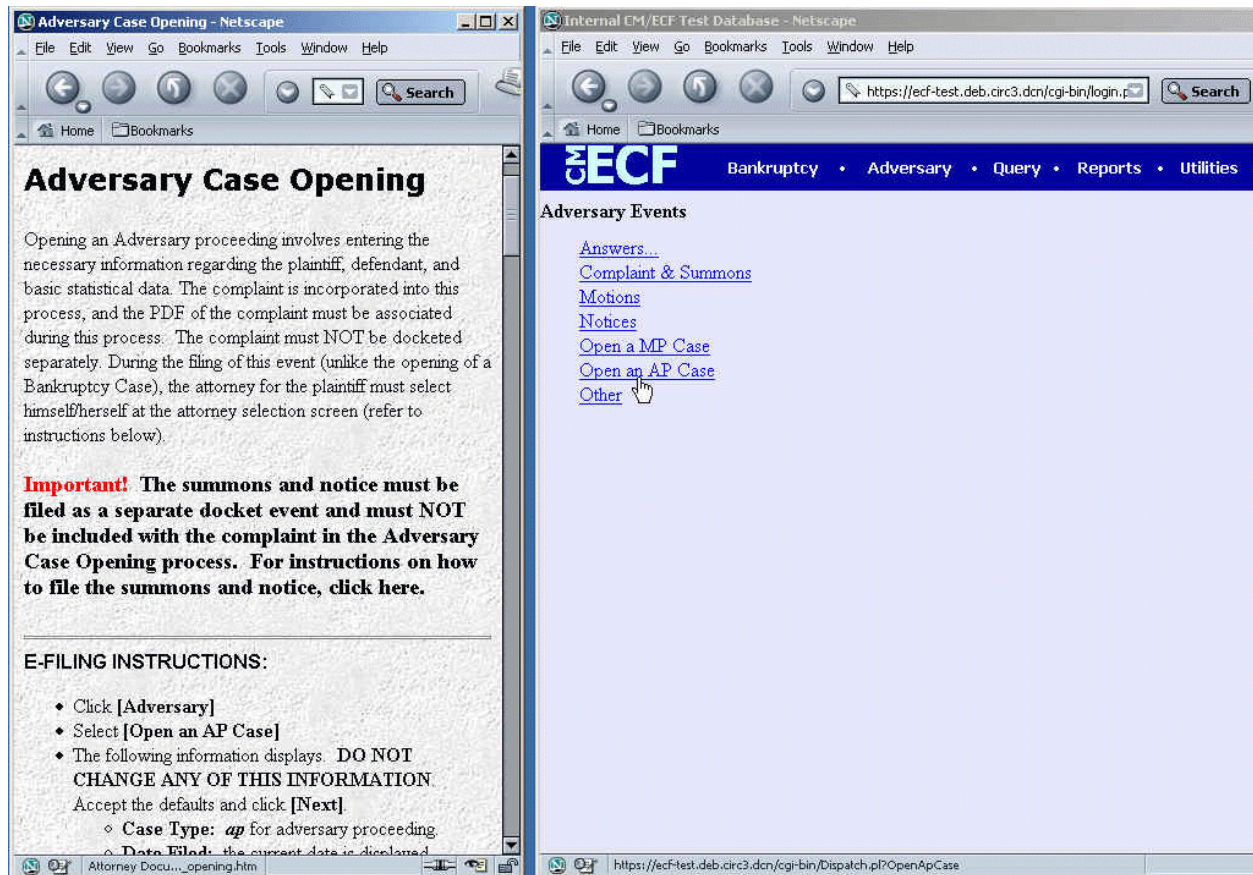
Training & Resources



Attorney CM/ECF Manual

- Step-by-step instructions can be found on the Court's website ~ www.deb.uscourts.gov
- Point to [Case Information] and click [Attorney CM/ECF Manual]
- Please use on-line manual simultaneously with CM/ECF to ensure you are following the most up-to-date procedures
 - Open browser twice, then restore windows down and resize

Manual & CM/ECF: Side-by-Side



Other Resources at www.deb.uscourts.gov

- **Local Rules**

- Point to [\[Local Rules\]](#) and select [\[U.S. Bankruptcy Court – Local Rules\]](#)

- **Clerk's Office Instructions & Guidelines**

- Point to [\[Clerk's Office\]](#) and select [\[Office Instructions and Guidelines\]](#)

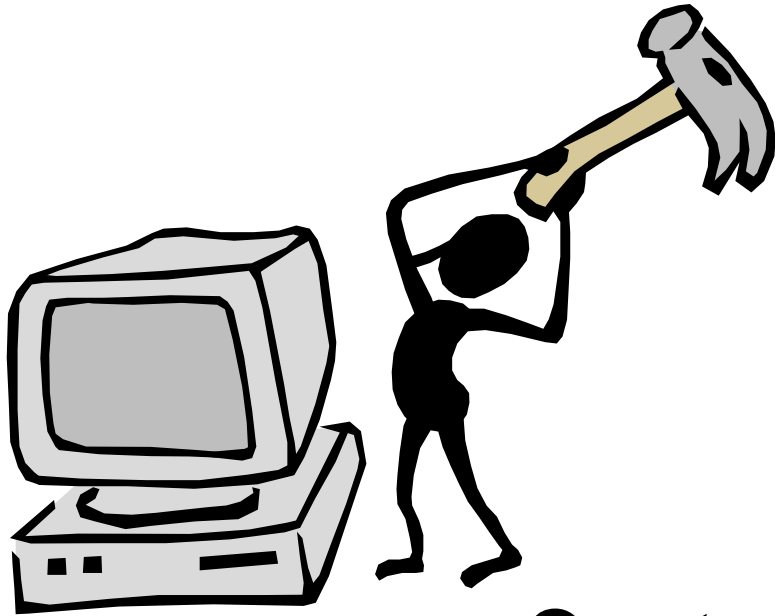
- **Chambers Procedures**

- Point to [\[Chambers\]](#) and select appropriate Judge

CM/ECF Training

To request CM/ECF training, complete a **CM/ECF Training Request Form** in Adobe Acrobat Reader, save, and e-mail to:
Kelly_Moyer@deb.uscourts.gov

- Point to **[Case Information]**
- Select **[Case Information Systems]**
- Click **[CM/ECF Support & Training]**
- Click **[CM/ECF Training Request Form]**



NEED HELP???

**Contact the Court's
HELP DESK**

Monday through Friday

8:00 am - 5:00 pm

302.252.2887

helpdeskde@deb.uscourts.gov

Additional Contact Information

Deborah Colmyer, Process Specialist

Deborah_Colmyer@deb.uscourts.gov

302.252.2901

Kelly Moyer, Training Coordinator

Kelly_Moyer@deb.uscourts.gov

302.252.2891